

2012 OCT 01 11:00

OFFICE

IN AND BEFORE THE
FEDERAL ELECTION COMMISSION

RECEIVED
2012 SEP 28 PM 1:00
FEC MAIL CENTER

In re:

Forbes for Congress,) MUR 6634
Cheryl Freau, Treasurer)
in her official capacity,)
Respondent)

RESPONSE AND
MOTION TO DISMISS COMPLAINT

Forbes for Congress ("the Committee") and its Treasurer, Cheryl L. Freau, in her official capacity as Treasurer of the Committee ("Treasurer"), ("Respondent"), files this Response to and Motion to Dismiss the Complaint filed by R. M. "Bonnie" Girard ("Complainant") with the Federal Election Commission ("Commission") alleging that Respondent violated the Federal Election Campaign Act of 1971, as amended ("the Act" or "FECA") ("the Complaint"). Respondent affirmatively states that the Committee did not violate FECA, the allegations are false, and the Complaint should be dismissed.

Complainant was an unsuccessful primary challenger to Randy Forbes, the Republican Congressman for the Fourth District of Virginia. Complainant bases her allegations entirely on comments she alleges were made at a meeting of the Colonial Heights, Virginia, Republican Party in which she asserts that a phone system purchased by the Committee was going to be used to make calls for the Republican Party and which should have been reported as an in-kind contribution from the Forbes Committee to one or more Republican Party committees.

Complainant does not provide a single instance of the actual use of the phone system for any purpose(s) at all nor does she provide evidence of any kind to substantiate the allegations in her Complaint. She offers no affidavits, scripts, recordings of phone messages, testimony or any other support for her allegations that FECA was violated. Indeed, the Complaint is based solely on her recollection of what she *thought* she heard at a meeting several months prior to the filing of the Complaint.

Contrary to the allegations in the Complaint, no violation has occurred. The Committee acquired a phone system from Innovative Campaign Strategies for the 2012 Forbes re-election campaign. The phones were intended to and have been used solely by Forbes for Congress. A contract between the Committee and Innovative Campaign Strategies was executed on April 4, 2012, for twenty phones: ten of which were sent to the Forbes Campaign HQ, located at 524

14044353751

Johnstown Rd, Chesapeake, VA and the remaining ten phones to the Committee's Chesterfield satellite office at 9602 Ironbridge RD, Chesterfield, VA.

The Committee's FEC Pre-Primary 2012 Report and July Quarterly Reports reflect the disbursements for the phone system, showing an original disbursement of \$4,215 which covers the initial set up fee. The subsequent disbursements of \$2,106.67 are the monthly recurring disbursements for each month the system remains in the Committee's possession. See Exhibits #1 and #2, Forbes for Congress Pre-Primary 2012 and July 2012 Quarterly FEC Reports Disbursement Pages.

There is no 'in-kind' contribution to any other political party or candidate committee because the phones have been and continue to be exclusively used by the Committee for purposes of the Forbes for Congress campaign and are used solely at the Forbes for Congress campaign properties. See Exhibit #3, Affidavit of Amanda Chase, Political Director of Forbes for Congress.

The scripts used by volunteers in the Forbes Campaign have related exclusively to supporting Randy Forbes' reelection to the House of Representatives for the 4th Congressional District of Virginia. See Exhibits #4, #5 and #6. Phone Scripts from Forbes for Congress campaign.

Ms. Chase attended the Colonial Heights GOP meeting on Monday, April 23, 2012 at the Colonial Heights Library and gave a Forbes campaign update to those in attendance and an explanation of the new phone system that was going to be used by the Forbes campaign in 2012.

The phone system from Imnovative Campaign Strategies was paid for by the Committee and has never been donated to or borrowed by the Republican Party of Virginia or any other GOP committee. The phones were and are used by the Forbes campaign at the Chesapeake HQ and Chesterfield satellite offices. The phones have never been used at a location outside of these two facilities or for any other purpose.

All phone calling activities using the phones leased by Forbes for Congress are for the benefit of Randy Forbes and no other candidate, as demonstrated by the archived call campaign database retained by Imnovative Campaign Strategies. The archived scripts attached to this Response demonstrate that all calls performed with the phones, and the accompanying call scripts associated with each call, were solely to support the candidacy of Randy Forbes. The scripts include the recorded message from Congressman Forbes, and the volunteer, absentee ballot, and GOTV calls. None of the calling programs advocated for any candidate other than Randy Forbes.

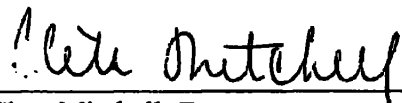
At no time has any of the data collected from said calls been shared with any individuals or groups outside the Forbes campaign. All data collected has been for internal use by the Forbes campaign and all GOTV efforts were exclusively for the benefit of Randy Forbes campaign.

All volunteers who made calls on behalf of the Forbes campaign were provided call scripts and instructions which clearly reflect that the purpose of each call was to advocate for the reelection of Randy Forbes, and ONLY Randy Forbes.

CONCLUSION

There is no evidence to support the allegations in the Complaint, because it is baseless and false, has no merit and should be dismissed.

Respectfully Submitted,



Cleta Mitchell, Esq.
Foley & Lardner LLP
3000 K Street, NW #600
Washington, DC 20007
(202) 295-4081
(202) 672-5399 (facsimile)

Counsel for Respondent
Forbes for Congress,
Cheryl Freauuff, Treasurer, in her official
capacity

Submitted via hand delivery this 28th day of September, 2012.

Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

14044353754

EXHIBIT 1

**FEC
FORM 3****REPORT OF RECEIPTS
AND DISBURSEMENTS**

For An Authorized Committee

RECEIVED

2012 SEP 28 PM 1:07
FEDERAL MAIL CENTER

1. NAME OF COMMITTEE (in full) TYPE OR PRINT ▼ Example: If typing, type over the lines.

Forbes for Congress

ADDRESS (number and street) ▼

PO Box 15100

Check if different
than previously
reported. (ACC)

Chesapeake

VA

23328

2. FEC IDENTIFICATION NUMBER ▼

C C00365692

CITY ▲

STATE ▲

ZIP CODE ▲

STATE ▼ DISTRICT

3. IS THIS
REPORT

X

NEW
(N)

OR

AMENDED
(A)

VA

04

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

April 15 Quarterly Report (Q1)

July 15 Quarterly Report (Q2)

October 15 Quarterly Report (Q3)

January 31 Year-End Report (YE)

Termination Report (TER)

(b) 12-Day PRE-Election Report for the:

X

Primary (12P)

General (12G)

Runoff (12R)

Convention (12C)

Special (12S)

Election on

06 / 12 / 2012

In the
State of

VA

(c) 30-Day POST-Election Report for the:

General (30G)

Runoff (30R)

Special (30S)

Election on

06 / 12 / 2012

In the
State of

VA

5. Covering Period

04 / 01 / 2012

through

05 / 23 / 2012

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Cheryl L. Freauff

Signature of Treasurer

Cheryl L. Freauff

[Electronically Filed]

Date

05 / 31 / 2012

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

Office
Use
Only**FEC FORM 3**
(Revised 02/2003)

**SCHEDULE B (FEC Form 3)
ITEMIZED DISBURSEMENTS**Use separate schedule(s)
for each category of the
Detailed Summary PageFOR LINE NUMBER:
(check only one)

PAGE 93 OF 127

<input checked="" type="checkbox"/> 17	<input type="checkbox"/> 18	<input type="checkbox"/> 19a	<input type="checkbox"/> 19b
20a	20b	20c	21

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)

Forbes for Congress

Full Name (Last, First, Middle Initial)

A. Innovative Campaign Strategies

Mailing Address PO Box 264

City	State	Zip Code
Columbia	SC	29202-

Purpose of Disbursement
Phone System for Calling

Candidate Name

Category/
Type

Office Sought:

☐ House
☐ Senate
☐ President

Disbursement For:

☐ Primary ☐ General
☐ Other (specify)

State: District:

Date of Disbursement

MM	DD	YY
04	05	2012

Amount of Each Disbursement this Period

4215.00

Transaction ID : 20503.E5961

PHONE SYSTEM FOR CALLING

Full Name (Last, First, Middle Initial)

B. Innovative Campaign Strategies

Mailing Address PO Box 264

City	State	Zip Code
Columbia	SC	29202-

Purpose of Disbursement
Leasing phones for calling

Candidate Name

Category/
Type

Office Sought:

☐ House
☐ Senate
☐ President

Disbursement For:

☐ Primary ☐ General
☐ Other (specify)

State: District:

Date of Disbursement

MM	DD	YY
04	27	2012

Amount of Each Disbursement this Period

2106.67

Transaction ID : 20503.E6055

LEASING PHONES FOR CALLING

Full Name (Last, First, Middle Initial)

C. Isle of Wight County

Mailing Address PO Box 80

City	State	Zip Code
Isle Of Wight	VA	23397-

Purpose of Disbursement
Event - Booth rental

Candidate Name

Category/
Type

Office Sought:

☐ House
☐ Senate
☐ President

Disbursement For:

☐ Primary ☐ General
☐ Other (specify)

State: District:

Date of Disbursement

MM	DD	YY
04	12	2012

Amount of Each Disbursement this Period

160.00

Transaction ID : 20503.E5972

EVENT - BOOTH RENTAL

SUBTOTAL of Disbursements This Page (optional)

6481.67

TOTAL This Period (last page this line number only)

14044353756

14044353757

EXHIBIT 2

**FEC
FORM 3****REPORT OF RECEIPTS
AND DISBURSEMENTS**
For An Authorized Committee

Office Use Only

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COMMITTEE (In full)

TYPE OR PRINT ▼

Example: If typing, type
over the lines.

12FE4M5

Forbes for Congress

ADDRESS (number and street)

PO Box 15100

Check if different
than previously
reported. (ACC)

Chesapeake

VA

23328

2. FEC IDENTIFICATION NUMBER ▼

CITY ▲

STATE ▲

ZIP CODE ▲

STATE ▼ DISTRICT

C C00365692

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X

NEW
(N)

OR

AMENDED
(A)

VA

04

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January 31 Year-End Report (YE)

Termination Report (TER)

(b) 12-Day PRE-Election Report for the:

Primary (12P)

General (12G)

Runoff (12R)

Convention (12C)

Special (12S)

Election on

M M / D U / Y Y / Y

in the
State of

(c) 30-Day POST-Election Report for the:

General (30G)

Runoff (30R)

Special (30S)

Election on

M M / D U / Y Y / Y

in the
State of

5. Covering Period

05

24

2012

through

06

30

2012

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Cheryl L. Freau

Signature of Treasurer

Cheryl L. Freau

[Electronically Filed]

Date

07

13

2012

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

Office
Use
Only**FEC FORM 3**
(Revised 02/2003)

**SCHEDULE B (FEC Form 3)
ITEMIZED DISBURSEMENTS**Use separate schedule(s)
for each category of the
Detailed Summary PageFOR LINE NUMBER:
(check only one)

PAGE 58 OF 76

<input checked="" type="checkbox"/> 17	<input type="checkbox"/> 18	<input type="checkbox"/> 19a	<input type="checkbox"/> 19b
<input type="checkbox"/> 20a	<input type="checkbox"/> 20b	<input type="checkbox"/> 20c	<input type="checkbox"/> 21

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NAME OF COMMITTEE (in full)

Forbes for Congress

Full Name (Last, First, Middle Initial)

A. Hunan Dynasty

Mailing Address 215 Pennsylvania Ave SE

City	State	Zip Code
Washington	DC	20003-

Purpose of Disbursement
Event - Catering

Candidate Name

Office Sought:

☐ House
☐ Senate
☐ President

Disbursement For:

☐ Primary ☐ General
☐ Other (specify)

State:

District:

Date of Disbursement

M	M	/	D	D	/	Y	Y	Y	Y
06			21			2012			

Amount of Each Disbursement this Period

113.15

Transaction ID : 20627.E6344

EVENT - CATERING

B. Innovative Campaign Strategies

Mailing Address PO Box 264

City	State	Zip Code
Columbia	SC	29202-

Purpose of Disbursement
Leasing phones for calling

Candidate Name

Office Sought:

☐ House
☐ Senate
☐ President

Disbursement For:

☐ Primary ☐ General
☐ Other (specify)

State:

District:

Date of Disbursement

M	M	/	D	D	/	Y	Y	Y	Y
05			30			2012			

Amount of Each Disbursement this Period

2108.87

Transaction ID : 20606.E6274

LEASING PHONES FOR CALLING

C. Jennys Asian Fusion

Mailing Address 1000 Water St SW

City	State	Zip Code
Washington	DC	20024-2425

Purpose of Disbursement
Meeting - Food & Beverage

Candidate Name

Office Sought:

☐ House
☐ Senate
☐ President

Disbursement For:

☐ Primary ☐ General
☐ Other (specify)

State:

District:

Date of Disbursement

M	M	/	D	D	/	Y	Y	Y	Y
06			07			2012			

Amount of Each Disbursement this Period

14.79

Transaction ID : 20627.E6284

MEETING - FOOD & BEVERAGE

SUBTOTAL of Disbursements This Page (optional).....

2234.61

TOTAL This Period (last page this line number only).....